

1 Jack Russo (Cal. Bar No. 96068)
Christopher Sargent (Cal. Bar No. 246285)
2 Ansel Halliburton (Cal. Bar No. 282906)
COMPUTERLAW GROUP LLP
3 401 Florence Street
Palo Alto, CA 94301
4 (650) 327-9800
(650) 618-1863 fax
5 jrusso@computerlaw.com
csargent@computerlaw.com
6 ahalliburton@computerlaw.com

7 Attorneys for Respondent
XIMPLEWARE CORP.

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 IN AND FOR THE COUNTY OF SANTA CLARA

11
12 **Ameriprise Financial, Inc.**, a Delaware
corporation; **Ameriprise Financial Services,**
13 **Inc.**, a Delaware corporation; and **American**
14 **Enterprise Investment Services, Inc.**, a
Delaware corporation,

15 Plaintiffs;

16 v.

17 **XimpleWare Corp.**, a California
corporation,

18 Respondent.
19
20
21
22
23
24
25
26
27
28

Case No. 113-CV-256454

[PROPOSED] ORDER FOLLOWING HEARING

1 The Petition of the above-referenced Petitioners (collectively, "Ameriprise Petitioners")
2 came on for hearing this morning before this Court in Department 19 before the Honorable
3 Socrates P. Manoukian; and based on the papers submitted and the argument made by the
4 undersigned counsel at the hearing, the Court ruled as follows:

- 5 1. The documents requested by Ameriprise shall be produced to counsel for Ameriprise
6 Peitioners by 5:00 p.m. PST on December 2, 2013, at the offices of counsel for
7 Ameriprise Peitioners in Palo Alto or electronically;
- 8 2. The deposition of the corporate representative of XimpleWare Corp. ("XimpleWare")
9 shall go forward on December 6, 2013 at 9:00 a.m. PST at the offices of counsel for
10 Ameriprise Peitioners in Palo Alto, California;
- 11 3. The scope of the questioning at the deposition is limited to matters relevant to the Texas
12 action pending in Travis County, Texas between Versata and Ameriprise and entitled
13 *Versata Software, Inc., et al. v. Ameriprise Financial, Inc., et al.*, No. D-1-GN-12-003588
14 (the "Texas State Court Action");
- 15 4. The Court makes no ruling on and Respondent XimpleWare reserves all of its rights and
16 objections, and may continue to assert such rights and objections, in connection with the
17 limited discovery to be provided pursuant to the foregoing;
- 18 5. No ruling is made with regard to defects, if any, in any notice, service, or other matters as
19 to any purported subpoena issued by Versata in the Texas State Court Action as the only
20 Petition before the Court is that filed by the Ameriprise Petitioners;
- 21 6. All of the foregoing is without prejudice to the decision of Judge Susan Illston in the
22 pending Federal court action entitled *XimpleWare Corp. v. Versata Software, Inc., et al.*,
23 No. 3:13-cv-5160 SI (the "Federal Copyright Action") to stay, modify, or otherwise
24 change the scheduling of the foregoing deposition or other discovery or to otherwise
25 require that the same be coordinated with respect to any depositions or other discovery
26 which is authorized in the Federal Copyright Action; and

27 //

28 //

1 7. No sanctions of any type are granted in favor of or against any party in making or
2 opposing this Petition as substantial justification existed for this Court's intervention and
3 the above-referenced rulings.
4

5 IT IS SO ORDERED THIS _____ day of December, 2013 in San Jose, California.
6

7 Approved as to Form:

8 For Ameriprise Petitioners

9 By: Martha C. Luemmen

10 Name: Martha C. Luemmen for
Greg Tamkin

11 Dorsey & Whitney LLP
12

13 For Respondent XimpleWare Corp.

14 By: Jack Russo

15 Name: Jack Russo

16 Computerlaw Group LLP
17

18
19
20 Dated December ____, 2013

By: _____
Judge of the Superior Court
21
22
23
24
25
26
27
28